



U.S. Department of Justice

United States Attorney
Southern District of New York

MEMO ENDORSED

50 Main Street, Suite 1100
White Plains, New York 10606

February 17, 2023

BY ECF

The Honorable Kenneth M. Karas
United States District Judge
Southern District of New York
300 Quarropas Street
White Plains, New York 10601

Re: *United States v. Nicholas Tartaglione*, S4 16 Cr. 832 (KMK)

Dear Judge Karas:

The Government respectfully submits this letter in accordance with the governing scheduling order in this case, which includes a deadline of today for the Government's objections to the defendant's proposed exhibits.

Pursuant to the scheduling order, the defendant's exhibits were due to the Government on February 13, 2023. To date, the Government has received from the defense a list of general categories of expected exhibits, along with a Rule 16(b) production of one of the listed categories (photographs taken by defense expert witness Hal Sherman).¹ But no marked exhibits have been provided to the Government, no list of specific exhibits has been provided, and the defense has failed to produce to the Government the balance of the Rule 16(b) materials referenced on its list of exhibit categories. As a result, without a more specific exhibit list and the exhibits themselves, the Government is unable to evaluate the relevance and admissibility of the majority of the defense exhibits.

For example, one item on the defense exhibit list is "Cell Site Analysis" but no analysis has been provided. Another item listed but not provided is "Photographs of Crime Scenes Properties." Similarly, another item on the list is "Rockland County District Attorney's File and Video (729_101915)" but no documents or video clips have been provided, and the Government has no way to know what portion of those files the defense intends to introduce. Government requests for these exhibits have gone unanswered.

Accordingly, the Government is unable to set forth any meaningful objections to defense exhibits at this time. The Government respectfully requests that the Court (1) direct the defense to comply with Rule 16(b) by Monday, February 27 (four days before the final pretrial conference)

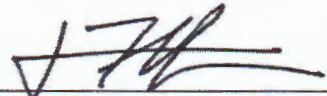
¹ The Government objects to these photographs for the reasons set forth in its motion to preclude Mr. Sherman's testimony.

or risk preclusion; and (b) permit the Government to submit objections a reasonable time after the defense complies with its discovery obligations.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

by:



Maureen Comey

Jason Swergold

Jacob R. Fiddelman

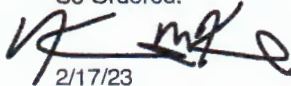
Assistant United States Attorneys

(212) 637-2324 / (914) 993-1963 / (212) 637-1024

cc: All counsel of record

The Court has been clear that it will ensure that the Parties comply with Rule 16. The Court has the same view about the schedule that the Parties agreed to regarding the production of exhibits. Counsel for Mr. Tartaglione is to produce all exhibits they intend to introduce by 2/24/23 or face preclusion of those exhibits. The trial of this case has been scheduled for many months and there is no cause for either side to ignore its obligations, both under the Federal Rules of Criminal Procedure and the schedule that governs this case. No extensions will be granted and no exhibit will be received if it was not produced in compliance with Rule 16 and/or the applicable (and revised) deadlines in the governing schedule.

So Ordered.


2/17/23